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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAVIER CABRERA, an individual;
DEBORAH MILLER, an individual,
CHERIE MANCINI, an individual;
NEVADA SERVICE EMPLOYEES
UNION STAFF UNION (“NSEUSU”),
an unincorporated association,

Plaintiffs,

vs.

SERVICE EMPLOYEES
INTERNATIONAL UNION, a nonprofit
cooperative corporation; LUISA BLUE,
in her official capacity as Trustee of
Local 1107; MARTIN MANTECA, in
his official capacity as Deputy Trustee of
Local 1107; MARY K. HENRY, in her
official capacity as Union President;
CLARK COUNTY PUBLIC
EMPLOYEES ASSOCIATION dba
NEVADA SERVICE EMPLOYEES
UNION aka SEIU LOCAL 1107, a
nonprofit cooperative corporation;
CAROL NIETERS, an individual; DOES
1-20; and ROE CORPORATIONS 1-20,
inclusive,

Defendants.

Case No.: 2:18-cv-00304-RFB-BNW

**REPLY TO RESPONSE FOR
MOTION FOR A NEW TRIAL
DATE**

(FIRST REQUEST)

1 Nevada Service Employees Union, SEIU 1107 (“Union”) and Luisa Blue
2 (collectively “Movants”) hereby reply to Defendant Debby Miller’s Response to the
3 Motion for a New Trial Date. ECF No. 263.

4 1. The standard for moving a trial is good cause.

5 “Good cause is a non-rigorous standard that has been construed broadly across
6 procedural and statutory contexts.” *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d
7 1253, 1259 (9th Cir. 2010) (internal quotation marks omitted). A scheduling order
8 ‘may be modified only for good cause and with the judge’s consent.’ Fed. R. Civ. P.
9 16(b)(4). “The district court is given broad discretion in supervising the pretrial
10 phase of litigation[.]” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th
11 Cir. 1992) (citation omitted). “Rule 16(b)'s ‘good cause’ standard primarily
12 considers the diligence of the party seeking the amendment.” *Id.* at 609.

13 2. Movants have been diligent.

14 Movant’s have been diligent. They have a history of seeking a trial date as
15 timely as possible as shown by their court filings. *See e.g.*, ECF Nos. 228, 240, 256,
16 258, 259, and 260. They have not delayed and have promoted a trial date at the
17 Court’s earliest convenience. They sought a stipulation from Plaintiff Debbie Miller
18 to continue the current trial date, explaining the need for a continuance. Miller
19 refused, not because Movant’s did not explain their need, but because she is upset
20 that it has taken so long for the trial to occur. Movants filed the motion to continue
21 months in advance so that no one is surprised. The Movant’s have been forthright
22 and open with everyone.

23 3. Prescheduled conflicts are good cause for continuing a trial date, and
24 requiring the posting of detailed plans in a public document is unwise.

25 Miller was told why Blue has a conflict. Rather than accept that discrete
26 explanation, Miller demands the posting of detailed plans in a public document. It is
27 sufficient good cause to continue trial if there are prescheduled conflicts. *See*

1 *Alexander v. Wal-Mart Stores, Inc.*, 2:11-CV-752 JCM (PAL), 2012 U.S. Dist.
 2 LEXIS 129615, *2 (D. Nev. 2012) (stating that a prescheduled conflict of the
 3 attorney constitutes good cause.) Plaintiff Miller dragged Defendant Blue into this
 4 lawsuit. It is unreasonable to expect a defendant dragged into a lawsuit to not plan a
 5 life and sit around waiting for a trial date. In general, Blue will not be in the United
 6 States during the scheduled trial period. Neither will witness Vergara-Mactal.
 7 Information beyond that should be unnecessary as it will not change their
 8 unavailability.

9 While Movants also want this matter closed, the fact remains that Defendant
 10 Blue and witness Vergara-Mactal have pre-purchased trips scheduled outside the
 11 United States. They will not be here for trial. Blue's lack of presence, in particular,
 12 impactgs Miller's ability to address some of her claims. Miller must understand that
 13 Blue will not be present for trial if the current trial date is kept.

14 A short continuance of the trial is more than proper, it is justified.

15 Dated this July 3, 2023.

16 CHRISTENSEN JAMES & MARTIN

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CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served in the following manner on the date it was filed with the Court's ECF System.

✓ ELECTRONIC SERVICE: Through the Court's E-Filing System to the following:

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